

**Executive Summary – Enforcement Matter – Case No. 46212**  
**San Antonio Water System**  
**RN102831864**  
**Docket No. 2013-0323-PST-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

PST

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

Van Dyke Service Center, 254 Seale Road, San Antonio, Bexar County

**Type of Operation:**

Fleet refueling facility

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** August 23, 2013

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$17,563

**Amount Deferred for Expedited Settlement:** \$3,512

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$0

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**SEP Conditional Offset:** \$14,051

Name of SEP: Medina Lake Cleanup

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - Unclassified

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2011

**Executive Summary – Enforcement Matter – Case No. 46212**  
**San Antonio Water System**  
**RN102831864**  
**Docket No. 2013-0323-PST-E**

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** October 25, 2012

**Date(s) of NOE(s):** January 17, 2013

***Violation Information***

1. Failed to provide release detection for the pressurized piping associated with the underground storage tank (“UST”) system. Specifically, the Respondent did not conduct the annual piping tightness test [30 TEX. ADMIN. CODE §334.50(b)(2) and TEX. WATER CODE §26.3475(a)].
2. Failed to report a suspected release to the TCEQ within 24 hours of discovery. Specifically, inventory records for September 2012 indicated a suspected release that was not reported [30 TEX. ADMIN. CODE § 334.72].
3. Failed to investigate a suspected release of regulated substance within 30 days of discovery. Specifically, inventory records for September 2012 indicated a suspected release that was not investigated. [30 TEX. ADMIN. CODE § 334.74].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

Respondent has implemented the following corrective measures at the Facility:

- a. Successfully conducted the annual piping tightness test on November 26, 2012;
- b. Conducted an investigation of the suspected release and implemented appropriate corrective measures on January 31, 2013; and
- c. Established and implemented a process for reporting and investigating suspected releases on March 4, 2013.

**Technical Requirements:**

The Order will require Respondent to implement and complete a Supplemental Environmental Project (“SEP”). (See SEP Attachment A)

**Executive Summary – Enforcement Matter – Case No. 46212**  
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***Litigation Information***

**Date Petition(s) Filed:** N/A  
**Date Answer(s) Filed:** N/A  
**SOAH Referral Date:** N/A  
**Hearing Date(s):** N/A  
**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A  
**TCEQ Enforcement Coordinator:** Steven Van Landingham, Enforcement Division, Enforcement Team 6, MC 128, (512) 239-5717; Candy Garrett, Enforcement Division, MC , (512) 239-1456  
**TCEQ SEP Coordinator:** Meaghan Bailey, SEP Coordinator, Litigation Division, MC 175, (512) 239-0205  
**Respondent:** Robert R. Puente, President/CEO, San Antonio Water System, P.O. Box 2449, San Antonio, Texas 78298  
Kenneth Pruitt, General Foreman, San Antonio Water System, P.O. Box 2449, San Antonio, Texas 78298  
**Respondent's Attorney:** N/A



**Attachment A**  
**Docket Number: 2013-0323-PST-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	San Antonio Water System
<b>Penalty Amount:</b>	Fourteen Thousand Fifty-One Dollars (\$14,051)
<b>SEP Offset Amount:</b>	Fourteen Thousand Fifty-One Dollars (\$14,051)
<b>Type of SEP:</b>	Custom
<b>Project Name:</b>	<i>Medina Lake Cleanup</i>
<b>Location of SEP:</b>	Bexar County

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset the administrative Penalty Amount assessed in this Agreed Order for Respondent to perform a Supplemental Environmental Project (“SEP”). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

**A. Project**

Respondent shall remove and properly dispose of solid waste and debris from the lake bed of Medina Lake, including but not limited to 55-gallon drums, scrap tires, chemical containers, and gas cylinders. Medina Lake is a drinking water source for the southern part of Bexar County and also contributes to the environmental flow to support the downstream habitat on Medina, San Antonio, and Guadalupe River systems all the way to the bay and estuaries of the Gulf Coast. Respondent shall contract with a licensed solid waste transporter and disposal company to remove and dispose of illegally dumped solid waste embedded in the lake bed of Medina Lake (the “Project”).

Respondent and contractor will coordinate with all necessary parties to gain access the lake bed. Priority consideration for the cleanup will be for public access sites. Any advertisement, including publication, related to the SEP must include the enforcement statement as stated in Section 6, Publicity, below. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

Respondent shall use the SEP Offset Amount only for the direct cost of implementing the Project, including supplies, materials, and equipment rentals, as listed in Subsection C. Minimum Expenditure, Estimated Cost Schedule, below. No portion of the SEP Offset Amount shall be spent on administrative costs, including but not limited to operating costs, reporting expenses, handling of expenses, project coordination, liability, or equipment breakdowns.

Respondent's signature affixed to the attached Agreed Order certifies that Respondent has no prior commitment to perform this Project and that the SEP is being performed solely as part of the terms of settlement in this enforcement action.

**B. Environmental Benefit**

The low water level due to the ongoing drought affords a great opportunity to access the lake bed and remove decades of trash and debris from this drinking water source.

**C. Minimum Expenditure**

Respondent shall spend at least the SEP Offset Amount to complete the project described in Section 1, above, and comply with all other provisions of this SEP. Respondent understands that it may cost more than the SEP Offset Amount to complete the Project.

**Estimated Cost Schedule**

<b>Item</b>	<b>Quantity</b>	<b>Cost</b>	<b>Units</b>	<b>Total</b>
Contractor for trash collection and transport equipment	1	\$15,000	Each	\$15,000
<b>Total</b>				<b>\$15,000</b>

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, Respondent shall begin implementation of the SEP. Respondent shall have completed the SEP in its entirety within 365 days after the effective date of this Agreed Order.

**3. Records and Reporting**

**A. Progress Report**

Within 30 days after the effective date of this Agreed Order, Respondent shall submit a Notice of Commencement to the TCEQ describing actions performed to date to implement the Project. Within 90 days of the effective date of this Agreed Order, Respondent shall submit a report detailing the progress made and all actions completed on the Project during the previous 60-day period and setting forth a schedule for achieving completion of the Project within the 365-day timeframe set forth in Section 2, Performance Schedule, above. Thereafter, Respondent shall submit progress reports to the TCEQ in 90-day increments containing detailed information on all actions completed on the Project to date as set forth in the Reporting Schedule table below:

<b>Days from Effective Order Date</b>	<b>Information Required</b>
30	Notice of Commencement describing actions taken to begin project
90	Actions completed during previous 60-day period
180	Actions completed during previous 90-day period
270	Actions completed during previous 90-day period
365	Notice of SEP completion

**B. Final Report**

Within 365 days after the effective date of the Agreed Order, or within 60 days after completion of SEP, whichever is earlier, Respondent shall submit a Final Report to the TCEQ, which shall include the following:

1. Itemized list of expenditures and total cost of the Project;
2. Copies of invoices, paid receipts, cleared checks or payment records corresponding to the itemized list in paragraph 3.B.1., above;
3. Detailed map showing specific locations of the cleanup site(s);
4. Dated photographs of the Project showing the collected materials;
5. A count on the type of items collected, i.e. number of televisions, number of tires (by type, such as passenger, truck, etc.), number of appliances (by type), gallons of paint, etc.
6. Manifest sufficient to show proof of proper disposal and/or recycling of the collected materials.
7. A certified/notarized statement of quantifiable environmental benefit;
8. Any additional information Respondent believes will, or that is requested by TCEQ to demonstrate compliance with this Attachment A.;

**C. Address**

Respondent shall submit all SEP reports and any additional information as requested to the following address:

Texas Commission on Environmental Quality  
Litigation Division  
Attention: SEP Coordinator, MC 175  
P.O. Box 13087  
Austin, Texas 78711-3087

#### **4. Additional Information and Access**

Respondent shall provide additional information as requested by TCEQ staff, and shall allow access to all records related to the SEP Offset Amount. Respondent shall also allow representatives of the TCEQ access to the site of any work being financed in whole or in part by the SEP Offset Amount. This provision shall survive the termination of this Agreed Order.

#### **5. Failure to Fully Perform**

If Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 through 4 above, the Executive Director ("ED") may require immediate payment of all or part of the SEP Offset Amount as set forth in the attached Agreed Order.

In the event the ED determines that Respondent failed to fully implement and complete the Project, Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for reimbursement of a SEP, shall make the check payable to "Texas Commission on Environmental Quality," and shall mail it to:

Texas Commission on Environmental Quality  
Litigation Division  
Attention: SEP Coordinator, MC 175  
P.O. Box 13087  
Austin, Texas 78711-3087

#### **6. Publicity**

Any public statements concerning this Project made by or on behalf of Respondent must include a clear statement that **the Project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

#### **7. Clean Texas Program**

Respondent shall not include this Project in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

#### **8. Other SEPs by TCEQ or Other Agencies**

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.





# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	1-Feb-2013	<b>Screening</b>	7-Feb-2013	<b>EPA Due</b>	
	<b>PCW</b>	13-Feb-2013				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	San Antonio Water System		
<b>Reg. Ent. Ref. No.</b>	RN102831864		
<b>Facility/Site Region</b>	13-San Antonio	<b>Major/Minor Source</b>	Minor

## CASE INFORMATION

<b>Enf./Case ID No.</b>	46212	<b>No. of Violations</b>	3
<b>Docket No.</b>	2013-0323-PST-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Petroleum Storage Tank	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Clinton Sims
		<b>EC's Team</b>	Enforcement Team 6
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$20,000
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## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

<b>Compliance History</b>	0.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$0
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Notes: No adjustment for compliance history.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$2,437
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts: \$302  
Approx. Cost of Compliance: \$5,318  
\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$17,563
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	\$17,563
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$17,563
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<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	-\$3,512
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$14,051
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Screening Date 7-Feb-2013

Docket No. 2013-0323-PST-E

PCW

Respondent San Antonio Water System

Policy Revision 3 (September 2011)

Case ID No. 46212

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102831864

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Clinton Sims

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

No adjustment for compliance history.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, &amp; 7) 0%

## &gt;&gt; Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 0%

Screening Date 7-Feb-2013

Docket No. 2013-0323-PST-E

PCW

Respondent San Antonio Water System

Policy Revision 3 (September 2011)

Case ID No. 46212

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102831864

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Clinton Sims

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 334.50(b)(2) and Tex. Water Code § 26.3475(a)

Violation Description

Failed to provide release detection for the pressurized piping associated with the underground storage tank ("UST") system. Specifically, the Respondent did not conduct the annual piping tightness test.

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

## Violation Events

Number of Violation Events 1

365 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	x
	single event	

Violation Base Penalty \$3,750

One annual event is recommended for the 12-month period preceding the October 25, 2012 investigation.

## Good Faith Efforts to Comply

25.0% Reduction

\$937

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes

The Respondent came into compliance on November 26, 2012, prior to the January 17, 2013 Notice of Enforcement.

Violation Subtotal \$2,813

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$130

Violation Final Penalty Total \$2,813

This violation Final Assessed Penalty (adjusted for limits) \$2,813

# Economic Benefit Worksheet

**Respondent** San Antonio Water System  
**Case ID No.** 46212  
**Reg. Ent. Reference No.** RN102831864  
**Media** Petroleum Storage Tank  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

## Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$118	25-Oct-2011	26-Nov-2012	2.01	\$12	\$118	\$130
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost for conducting the annual piping tightness test. The date required is one year prior to the investigation date, and the final date is the date of compliance.

Approx. Cost of Compliance

\$118

**TOTAL**

\$130

Screening Date 7-Feb-2013

Docket No. 2013-0323-PST-E

PCW

Respondent San Antonio Water System

Policy Revision 3 (September 2011)

Case ID No. 46212

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102831864

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Clinton Sims

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 334.72

Violation Description

Failed to report a suspected release to the TCEQ within 24 hours of discovery. Specifically, inventory records for September 2012 indicated a suspected release that was not reported.

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$23,750

\$1,250

## Violation Events

Number of Violation Events 1

130 Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,250

One single event is recommended.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,250

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$109

Violation Final Penalty Total \$1,250

This violation Final Assessed Penalty (adjusted for limits) \$1,250

## Economic Benefit Worksheet

**Respondent** San Antonio Water System  
**Case ID No.** 46212  
**Reg. Ent. Reference No.** RN102831864  
**Media** Petroleum Storage Tank  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$100	2-Oct-2013	4-Mar-2013	0.42	\$2	n/a	\$2
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated delay cost for implementing a process for reporting and investigating suspected releases. The date required is the date of the suspected release, and the final date is the date of compliance

### Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$100	2-Oct-2013	2-Oct-2013	1.34	\$7	\$100	\$107
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to report a suspected release. The date required is the date of the suspected release, and the final date is the date the report was due.

Approx. Cost of Compliance	\$200	<b>TOTAL</b>	\$109
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Screening Date 7-Feb-2013

Docket No. 2013-0323-PST-E

PCW

Respondent San Antonio Water System

Policy Revision 3 (September 2011)

Case ID No. 46212

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102831864

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Clinton Sims

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 334.74

Violation Description

Failed to investigate a suspected release of regulated substance within 30 days of discovery. Specifically, inventory records for September 2012 indicated a suspected release that was not investigated.

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

## Violation Events

Number of Violation Events 4

92 Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$15,000

Four monthly events are recommended from the release investigation due date of October 31, 2012 to the January 31, 2013 compliance date.

## Good Faith Efforts to Comply

10.0% Reduction

\$1,500

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		x
N/A		(mark with x)

Notes

The Respondent came into compliance on January 31, 2013, after the January 17, 2013 Notice of Enforcement.

Violation Subtotal \$13,500

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$63

Violation Final Penalty Total \$13,500

This violation Final Assessed Penalty (adjusted for limits) \$13,500

## Economic Benefit Worksheet

**Respondent** San Antonio Water System  
**Case ID No.** 46212  
**Reg. Ent. Reference No.** RN102831864  
**Media** Petroleum Storage Tank  
**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$5,000	31-Oct-2012	31-Jan-2013	0.25	\$63	n/a	\$63

Notes for DELAYED costs

Estimated cost to investigate a suspected release. The date required is the date the release investigation was due, and the final date is the date of compliance.

### Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

**TOTAL**

\$63



The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



## TCEQ Compliance History Report

**PUBLISHED** Compliance History Report for CN600529069, RN102831864, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012

**Customer, Respondent, or Owner/Operator:** CN600529069, San Antonio Water System **Classification:** SATISFACTORY **Rating:** 10.07

**Regulated Entity:** RN102831864, VAN DYKE SERVICE CENTER **Classification:** UNCLASSIFIED **Rating:** -----

**Complexity Points:** 2 **Repeat Violator:** NO

**CH Group:** 09 - Construction

**Location:** 254 SEALE RD SAN ANTONIO, TX 78219-2713, BEXAR COUNTY

**TCEQ Region:** REGION 13 - SAN ANTONIO

**ID Number(s):**

**PETROLEUM STORAGE TANK REGISTRATION**  
REGISTRATION 45788

**Compliance History Period:** September 01, 2007 to August 31, 2012 **Rating Year:** 2012 **Rating Date:** 09/01/2012

**Date Compliance History Report Prepared:** February 07, 2013

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** February 07, 2008 to February 07, 2013

**TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**

**Name:** Clinton Sims

**Phone:** (512) 239-6933

### Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If YES for #2, who is the current owner/operator? N/A
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If YES, when did the change(s) in owner or operator occur? N/A

### Components (Multimedia) for the Site Are Listed in Sections A - J

#### **A. Final Orders, court judgments, and consent decrees:**

N/A

#### **B. Criminal convictions:**

N/A

#### **C. Chronic excessive emissions events:**

N/A

#### **D. The approval dates of investigations (CCEDS Inv. Track. No.):**

N/A

#### **E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):**

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

**F. Environmental audits:**

**G. Type of environmental management systems (EMSs):**

N/A

**H. Voluntary on-site compliance assessment dates:**

N/A

**I. Participation in a voluntary pollution reduction program:**

N/A

**J. Early compliance:**

N/A

**Sites Outside of Texas:**

N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
SAN ANTONIO WATER SYSTEM  
RN102831864

§ BEFORE THE  
§  
§ TEXAS COMMISSION ON  
§  
§ ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2013-0323-PST-E

### I. JURISDICTION AND STIPULATIONS

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding San Antonio Water System ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a fleet refueling facility at 254 Seale Road in San Antonio, Bexar County, Texas (the "Facility").
2. The Respondent's two underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about January 22, 2013.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Seventeen Thousand Five Hundred Sixty-Three Dollars (\$17,563) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Three Thousand Five Hundred Twelve Dollars (\$3,512) of the administrative penalty is deferred contingent upon the Respondent's

- timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. Fourteen Thousand Fifty-One Dollars (\$14,051) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
  8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
  9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
    - a. Successfully conducted the annual piping tightness test on November 26, 2012;
    - b. Conducted an investigation of the suspected release and implemented appropriate corrective measures on January 31, 2013; and
    - c. Established and implemented a process for reporting and investigating suspected releases on March 4, 2013.
  10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
  11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
  12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to provide release detection for the pressurized piping associated with the UST system, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(2) and TEX. WATER CODE § 26.3475(a), as documented during an investigation conducted on October 25, 2012. Specifically, the Respondent did not conduct the annual piping tightness test.
2. Failed to report a suspected release to the TCEQ within 24 hours of discovery, in violation of 30 TEX. ADMIN. CODE § 334.72, as documented during an investigation

conducted on October 25, 2012. Specifically, inventory records for September 2012 indicated a suspected release that was not reported.

3. Failed to investigate a suspected release of regulated substance within 30 days of discovery, in violation of 30 TEX. ADMIN. CODE §334.74, as documented during an investigation conducted on October 25, 2012. Specifically, inventory records for September 2012 indicated a suspected release that was not investigated.

### III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: San Antonio Water System, Docket No. 2013-0323-PST-E" to:

Financial Administration Division, Revenue Operations Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Fourteen Thousand Fifty-One Dollars (\$14,051) of the assessed administrative penalty shall be offset with the condition that the Respondent implements the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes

aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
For the Executive Director

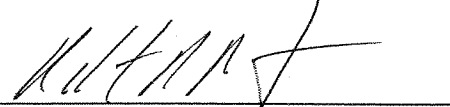
4/2/14  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

  
Signature

6-24-13  
Date

Robert R. Puentes  
Name (Printed or typed)  
Authorized Representative of  
San Antonio Water System

Pres/CEO  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.





**Attachment A**  
**Docket Number: 2013-0323-PST-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	San Antonio Water System
<b>Penalty Amount:</b>	Fourteen Thousand Fifty-One Dollars (\$14,051)
<b>SEP Offset Amount:</b>	Fourteen Thousand Fifty-One Dollars (\$14,051)
<b>Type of SEP:</b>	Custom
<b>Project Name:</b>	<i>Medina Lake Cleanup</i>
<b>Location of SEP:</b>	Bexar County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative Penalty Amount assessed in this Agreed Order for Respondent to perform a Supplemental Environmental Project ("SEP"). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

**A. Project**

Respondent shall remove and properly dispose of solid waste and debris from the lake bed of Medina Lake, including but not limited to 55-gallon drums, scrap tires, chemical containers, and gas cylinders. Medina Lake is a drinking water source for the southern part of Bexar County and also contributes to the environmental flow to support the downstream habitat on Medina, San Antonio, and Guadalupe River systems all the way to the bay and estuaries of the Gulf Coast. Respondent shall contract with a licensed solid waste transporter and disposal company to remove and dispose of illegally dumped solid waste embedded in the lake bed of Medina Lake (the "Project").

Respondent and contractor will coordinate with all necessary parties to gain access the lake bed. Priority consideration for the cleanup will be for public access sites. Any advertisement, including publication, related to the SEP must include the enforcement statement as stated in Section 6, Publicity, below. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

Respondent shall use the SEP Offset Amount only for the direct cost of implementing the Project, including supplies, materials, and equipment rentals, as listed in Subsection C. Minimum Expenditure, Estimated Cost Schedule, below. No portion of the SEP Offset Amount shall be spent on administrative costs, including but not limited to operating costs, reporting expenses, handling of expenses, project coordination, liability, or equipment breakdowns.

Respondent's signature affixed to the attached Agreed Order certifies that Respondent has no prior commitment to perform this Project and that the SEP is being performed solely as part of the terms of settlement in this enforcement action.

**B. Environmental Benefit**

The low water level due to the ongoing drought affords a great opportunity to access the lake bed and remove decades of trash and debris from this drinking water source.

**C. Minimum Expenditure**

Respondent shall spend at least the SEP Offset Amount to complete the project described in Section 1, above, and comply with all other provisions of this SEP. Respondent understands that it may cost more than the SEP Offset Amount to complete the Project.

**Estimated Cost Schedule**

<b>Item</b>	<b>Quantity</b>	<b>Cost</b>	<b>Units</b>	<b>Total</b>
Contractor for trash collection and transport equipment	1	\$15,000	Each	\$15,000
<b>Total</b>				<b>\$15,000</b>

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, Respondent shall begin implementation of the SEP. Respondent shall have completed the SEP in its entirety within 365 days after the effective date of this Agreed Order.

**3. Records and Reporting**

**A. Progress Report**

Within 30 days after the effective date of this Agreed Order, Respondent shall submit a Notice of Commencement to the TCEQ describing actions performed to date to implement the Project. Within 90 days of the effective date of this Agreed Order, Respondent shall submit a report detailing the progress made and all actions completed on the Project during the previous 60-day period and setting forth a schedule for achieving completion of the Project within the 365-day timeframe set forth in Section 2, Performance Schedule, above. Thereafter, Respondent shall submit progress reports to the TCEQ in 90-day increments containing detailed information on all actions completed on the Project to date as set forth in the Reporting Schedule table below:

<b>Days from Effective Order Date</b>	<b>Information Required</b>
30	Notice of Commencement describing actions taken to begin project
90	Actions completed during previous 60-day period
180	Actions completed during previous 90-day period
270	Actions completed during previous 90-day period
365	Notice of SEP completion

**B. Final Report**

Within 365 days after the effective date of the Agreed Order, or within 60 days after completion of SEP, whichever is earlier, Respondent shall submit a Final Report to the TCEQ, which shall include the following:

1. Itemized list of expenditures and total cost of the Project;
2. Copies of invoices, paid receipts, cleared checks or payment records corresponding to the itemized list in paragraph 3.B.1., above;
3. Detailed map showing specific locations of the cleanup site(s);
4. Dated photographs of the Project showing the collected materials;
5. A count on the type of items collected, i.e. number of televisions, number of tires (by type, such as passenger, truck, etc.), number of appliances (by type), gallons of paint, etc.
6. Manifest sufficient to show proof of proper disposal and/or recycling of the collected materials.
7. A certified/notarized statement of quantifiable environmental benefit;
8. Any additional information Respondent believes will, or that is requested by TCEQ to demonstrate compliance with this Attachment A.;

**C. Address**

Respondent shall submit all SEP reports and any additional information as requested to the following address:

Texas Commission on Environmental Quality  
Litigation Division  
Attention: SEP Coordinator, MC 175  
P.O. Box 13087  
Austin, Texas 78711-3087

#### 4. **Additional Information and Access**

Respondent shall provide additional information as requested by TCEQ staff, and shall allow access to all records related to the SEP Offset Amount. Respondent shall also allow representatives of the TCEQ access to the site of any work being financed in whole or in part by the SEP Offset Amount. This provision shall survive the termination of this Agreed Order.

#### 5. **Failure to Fully Perform**

If Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 through 4 above, the Executive Director ("ED") may require immediate payment of all or part of the SEP Offset Amount as set forth in the attached Agreed Order.

In the event the ED determines that Respondent failed to fully implement and complete the Project, Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for reimbursement of a SEP, shall make the check payable to "Texas Commission on Environmental Quality," and shall mail it to:

Texas Commission on Environmental Quality  
Litigation Division  
Attention: SEP Coordinator, MC 175  
P.O. Box 13087  
Austin, Texas 78711-3087

#### 6. **Publicity**

Any public statements concerning this Project made by or on behalf of Respondent must include a clear statement that **the Project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

#### 7. **Clean Texas Program**

Respondent shall not include this Project in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

#### 8. **Other SEPs by TCEQ or Other Agencies**

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.